

REMARKS

Applicants respectfully request favorable reconsideration of this application, as amended.

Claims 8 and 9 have been amended to address the alleged informalities. Claims 2 and 5 have been amended to incorporate minor editorial changes not affecting patentability.

The Examiner's indication of allowable subject matter in Claim 6 is acknowledged with appreciation. Claim 6 has been retained in dependent form in view of the allowability of base Claim 2, as will be discussed further below.

In the outstanding Office Action, Claim 1 was rejected under 35 U.S.C. § 102(a), as being anticipated by XP-02260002 (publication JP 2001-354206). Independent Claims 11 and 13 were rejected under 35 U.S.C. § 102(b), as being anticipated by Broll et al. (DE 3742433 A1) and Simon (US 4,475,576), respectively. Independent Claim 2 was rejected under 35 U.S.C. § 103(a), as being unpatentable over Jenny (US 6,391,629 B1) in view of Angehrn et al. (US 6,530,401 B1), and as being unpatentable over XP in view of Angehrn et al. Applicants respectfully traverse.

Independent Claim 1 recites, inter alia, an apparatus for preserving the contents of a part filled container, the apparatus having a stopper with a bi-directional valve that

is able to be removably fitted in an aperture of the container. The apparatus allows gas to be introduced into or extracted from the container through the valve in the stopper.

Contrary to the Office's assertion that XP discloses a stopper which passes gas in two directions (indicating that it is bi-directionally valved), XP in fact discloses two separate plugs; an evacuation plug 2 for removing air from a bottle, and a pressurizing plug 3 for injecting carbon dioxide into a bottle (see XP Figures 4-6 and PAJ Abstract for JP 2001-354206). Plugs 2 and 3 are used independently to each pass gas in a single respective direction; they do not represent a single stopper with a bi-directional valve. Accordingly, the applied reference fails to disclose or suggest an apparatus such as that of Applicants' claimed invention. Claim 1 is therefore allowable.

Independent Claim 11 recites a method for preserving the contents of a part filled beverage container, the method including removing gas from the container until a first predetermined pressure is achieved, and supplying an inert gas to the container until a second predetermined pressure is achieved.

In contrast to Applicants' claimed invention, the applied reference, namely Broll et al., discloses a method

in which prior to being filled with a liquid, a bottle is pressed against filling valves, evacuated, and preloaded with gas (see Broll Abstract). The Broll method neither discloses nor suggests Applicants' method for preserving the contents of a part filled beverage container. Indeed, the Broll method would not be suitable for use with a part filled beverage container. Claim 11 is therefore allowable, as is its dependent claim.

Independent Claim 13 recites a stopper for a wine bottle, the stopper having a skirt to seal against the neck of a wine bottle and a bi-directional valve which can open to allow flow through the stopper in either direction when a pressure differential above a threshold level is applied in either direction across the stopper, and which remains closed when a pressure differential below the threshold is applied.

The applied reference, namely Simon, fails to disclose or suggest a stopper such as that of Applicants' claimed invention. Note, for example, that flap valves 38 and 42 are two individual valves which operate as check valves that each allow gas to flow in a single respective direction (see Simon Fig. 3 and col. 2, lines 27-38). Accordingly, Claim 13 is allowable, as is its dependent claim.

Independent Claim 2 recites, *inter alia*, an apparatus for preserving the contents of a part filled container, the apparatus including a bi-directional valved stopper that is able to be removably fitted in an aperture of the container.

The principal references cited in the outstanding rejection, namely Jenny and XP, fail to teach or suggest an apparatus for preserving the contents of part filled container, the apparatus having a bi-directional valved stopper that is able to be removably fitted in an aperture of the container. In addition to the previous discussion regarding XP, note that Jenny discloses two separate gas inlet and outlet channels 49 and 50, each having a back-pressure valve 51 and 52 (see Jenny Fig. 3 and col. 4, lines 60-61). The secondary reference, Angehrn, fails to supply this deficiency. Note, for example, the recitation of an inlet valve that operates as a non-return valve (see Angehrn, col. 4, lines 43-45).

Accordingly, the combined teachings of the principal and secondary references neither produce nor suggest Applicants' invention. The rejection of Claim 2 is therefore untenable and should be withdrawn.

This application is clearly in condition for allowance and should now be passed to issue.

A Notice of Allowance is respectfully solicited.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (XA-10292) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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